

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

From: Latessa, Sara H (DEC) [mailto:Sara.Latessa@dec.ny.gov]
Sent: Wednesday, October 26, 2016 8:55 AM
To: Arcaya, Alyssa <arcaya.alyssa@epa.gov>; Arvizu, Christy <Arvizu.Christy@epa.gov>; Coats, Andrea <Coats.Andrea@epa.gov>
Cc: Lendrum, Jacqueline M (DEC) <jacqueline.lendrum@dec.ny.gov>
Subject: Fact Sheet for Draft CWA CAFO GP

As requested by EPA, the following highlighted language has been changed or modified:

“The farm-specific ANMP must be submitted with the Notice of Intent for coverage under this permit and the availability of both will be publically noticed and comments received for 30 days. Upon submission of the ANMP and NOI, the Department will have 60 days to review the documents in order to ensure compliance with permit requirements and will notify the applicant if changes are needed. If, at any time throughout the permit term, the individual farm proposes an action that does not meet NRCS standards (ie. the effluent limitations established in the permits) then a revised ANMP must be submitted, made available to the public for comment and an opportunity for hearing provided. Part IV.F. of the permit describes these actions that warrant submission of a revised ANMP.”

“In 2008, EPA deleted that provision in the Federal Register as they determined a discharge beyond the 100 year storm is technically still a discharge and therefore should not be described as “zero discharge”. The 2008 CAFO Rule, however, allows for site specific evaluations to demonstrate a system to be capable of achieving the no discharge requirement. The Federal Register [Vol. 73., No. 225, pg 70460 (2008)] goes on to explain that this demonstration is designed to show that there will be no discharge from the CAFO except in exactly the circumstances provided in EPAs upset/bypass regulations. In those regulations [40 CFR 122.41(n)], an “upset” is defined as “an unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee.” The Department believes the demonstration provided in the newly required WWSOPs may demonstrate that there will be no discharge from the CAFO except in exactly the circumstances provided in EPAs upset/bypass regulations.”

Please let us know if the revised language now satisfies EPAs comments regarding the Fact Sheet?

Revised language in the Draft CWA GP will be in a separate email.

Thank you!,
Sara

Sara H. Latessa

Environmental Program Specialist, Division of Water

New York State Department of Environmental Conservation

625 Broadway, Albany, NY 12233

P: 518-402-8279 | sara.latessa@dec.ny.gov

www.dec.ny.gov |  | 